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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVEN J. GREENSTEIN, an individual,

Plaintiff,

vs.

WELLS FARGO BANK, N.A. F/K/A
WELLS FARGO HOME MORTGAGE,
INC., DOES 1-20; and ROE ENTITIES 1-
20,

Defendants.

CASE NO. 2:14-cv-01457-APG-CWH

**STIPULATION AND ORDER FOR
EXTENSION OF DISCOVERY PLAN
AND SCHEDULING ORDER**

(THIRD REQUEST)

Pursuant to Local Rules 26-4 and 6-1, the parties hereby submit the following Stipulation and Order for Extension of Discovery Plan and Scheduling Order to extend certain deadlines set forth by this Court in its June 25, 2015 Order by approximately 200 days, as follows:

I. CURRENT DATES AND REQUESTED EXTENSIONS

1. Discovery Cut-off Date(s):

Current Date: October 12, 2015

Requested Extension: **May 12, 2016**

2. Amended Pleadings and Adding Parties:

Current Date: April 15, 2015

Requested Extension: **None**

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3. **Last Date to Complete Initial Expert Disclosures:**

Current Date: May 15, 2015

Requested Extension: **None**

4. **Last Date to Complete Rebuttal Expert Disclosures:**

Current Date: June 15, 2015

Requested Extension: **None**

5. **Last Date to File Dispositive Motions:**

Current Date: November 11, 2015

Requested Extension: **June 13, 2016**

6. **Interim Status Report:**

Current Date: May 15, 2015

Requested Extension: **None**

7. **Joint Pretrial Order:**

Current Date: September 14, 2015

Requested Extension: **July 13, 2016**

In the event that dispositive motions are filed, the parties stipulate that the date for filing the joint pretrial order shall be suspended until 30 days after decision of the dispositive motions or further order of the Court.

8. **Other Items:**

(a) **Deposition Notice.** Parties shall provide Wells Fargo with at least sixty (60) days notice of any deposition of Wells Fargo's person most knowledgeable, or any other employee, representative, or agent of Wells Fargo identified for any deposition in this matter.

(b) **Protective Order.** In addition to this proposed discovery plan and scheduling order, the parties have executed a protective order in order to protect the disclosure of confidential design documents and other confidential proprietary information, including, but not limited to confidential financial and marketing information.

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(c) Extension or Modification. In accordance with Local Rule 26-4, a request for extension or modification of this stipulation and order shall be filed and served no later than twenty-one (21) days before the expiration cutoff date. (LR 26-4).

II. STATEMENT OF FACTS

Plaintiff's Complaint asserts claims for breach of contract, breach of the covenant of good faith and fair dealing, and fraud concerning a loan on the Subject Property, commonly referred to as 3765 Pacific Street, Las Vegas, Nevada 89121. Plaintiff filed this lawsuit in Clark County District Court on August 13, 2014. Plaintiff served Wells Fargo with a copy of the summons and complaint on August 21, 2014. On September 10, 2014, Wells Fargo removed the case to this court.

III. REASONS FOR THE REQUESTED EXTENSION

Pursuant to Local Rule 6-1, the parties submit that good cause exists for the short extension requested above for the following reasons:

The parties have diligently exchanged discovery in the early stages of this case, but Plaintiff was out of the country from November 15, 2014 to late May 2015. Upon his return, Plaintiff underwent two surgeries that could not be rescheduled, delaying his deposition until August 20, 2015. (Declaration of Holly E. Cheong, Esq. ("Cheong Decl.") ¶ 5, attached as Exhibit A; Declaration of Steven J. Greenstein ("Greenstein Decl.") ¶ 4, attached as Exhibit B.) Due to an unexplained delay regarding the transcript of Plaintiff's deposition, the parties did not receive the deposition transcript until September 15, 2015. (Cheong Decl. ¶ 7.) The parties need to conduct additional discovery based on Plaintiff's deposition, which requires Plaintiff's deposition transcript. Cheong Decl. ¶ 5. Given the delays in Plaintiff's deposition and delivery of the transcript, this cannot be accomplished by the discovery deadline. Cheong Decl. ¶¶ 5, 8.

Moreover, Plaintiff is now scheduled to leave the country on October 17, 2015, and is not expected back until May 2016. (Cheong Decl. ¶ 6; Greenstein Decl. ¶ 5.) Plaintiff will be Thailand for that entire time with very limited access to email and the Internet. (*Id.*) Plaintiff's discovery responses and input will be required during that time. (Cheong Decl. ¶¶ 5, 8.) Although, Plaintiff will be able to respond to discovery from Thailand, his responses will be

1 delayed by a few months when he does not have access to email or the Internet. (Cheong Decl. ¶
 2 6; Greenstein Decl. ¶ 5.) The parties can continue with discovery that does not involve Plaintiff
 3 but Plaintiff's input will be necessary to complete discovery in this case. Also, his participation
 4 in the trial will be crucial.

5 Plaintiff employment depends upon his presence in Thailand until May 2016. Plaintiff
 6 cannot delay or shorten his trip. (Greenstein Decl. ¶ 6.) In light of the above, the parties believe
 7 the requested extension is both justified and reasonable as it will result in a total discovery period
 8 of just one (1) year and seven (7) months from the date the parties' held their Rule 26(f)
 9 conference.

10 In accordance with Local Rule 26-4, this request for an extension of the discovery plan
 11 has been filed and served no later than twenty-one (21) days before the expiration cutoff date.

12 **IV. STATUS OF DISCOVERY EFFORTS TO DATE**

13 The parties have been actively engaged in discovery in this case. Specifically, the parties
 14 have completed the following discovery:

- 15 • The parties attended the initial FRCP 26(f) conference on October 14, 2014.
- 16 • The parties exchanged their initial FRCP 26(a)(1) disclosures on October 28, 2014.
- 17 • Wells Fargo served its first set of supplemental disclosures on November 17, 2014.
- 18 • Wells Fargo served its second set of supplemental disclosures on January 22,
 19 2015.
- 20 • Wells Fargo served its first set of discovery requests on May 5, 2015.
- 21 • Plaintiff responded to Wells Fargo's first set of discovery requests on June 11,
 22 2015.
- 23 • Plaintiff served his first set of discovery requests on June 12, 2015.
- 24 • Wells Fargo responded to Plaintiff's first set of discovery requests on July 29,
 25 2015.
- 26 • Wells Fargo conducted Plaintiff's deposition on August 20, 2015.

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V. DISCOVERY REMAINING

The parties anticipate, at a minimum, needing to complete the following additional discovery:

- Additional written discovery, including interrogatories, requests for production and requests for admission, especially additional written discovery based on questions raised in Plaintiff's deposition;
- Deposition of Stanley Greenstein, Plaintiff's father, currently scheduled for October 9, 2015 (Notice of Deposition of Stanley G. Greenstein, attached as Exhibit C.);
- Deposition of Penny Mabel Motty Greenstein, Plaintiff's wife;
- Deposition of Wells Fargo employees and former employees involved in processing Plaintiff's loan and loan modification requests (subpoena has been issued for Ms. Joanne McKinnon);
- Deposition of Wells Fargo's corporate representative(s) (Plaintiff, Steven J. Greenstein's Notice of Deposition of the Person Most Knowledgeable for Defendant, Wells Fargo Bank, N.A., F/K/A Wells Fargo Home Mortgage, Inc., attached as Exhibit D.);
- Additional fact witness depositions.

VI. CONCLUSION

Good cause exists to extend the case management deadlines in this case. This extension is not sought simply to delay. To the contrary, the parties have diligently engaged in discovery since participating in their Rule 26 discovery planning conference. Despite the parties' efforts, however, the current discovery deadlines do not allow sufficient time to complete the discovery that must be accomplished, especially in light of Plaintiff's extended stay outside the country, recent surgeries, and upcoming travel.

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Accordingly, the parties respectfully request that the Court grant their request to extend certain deadlines as set forth above.

DATED this 21st day of September, 2015.

SNELL & WILMER L.L.P.

HURTIK LAW & ASSOCIATES

By: /s/ Holly E. Cheong

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By: /s/ Carrie E. Hurtik

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Attorneys for Plaintiff
STEVEN J. GREENSTEIN

ORDER

IT IS SO ORDERED.

DATED: September 22, 2015


UNITED STATES MAGISTRATE JUDGE

Respectfully submitted by:

SNELL & WILMER L.L.P.

By: /s/ Holly E. Cheong

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CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **STIPULATION AND ORDER FOR EXTENSION OF DISCOVERY PLAN AND SCHEDULING ORDER (THIRD REQUEST)** by the method indicated:

_____	U.S. Mail
_____	U.S. Certified Mail
_____	Facsimile Transmission
_____	Overnight Mail
_____	Federal Express
_____	Hand Delivery
<u> X </u>	Electronic Filing

and addressed to the following:

Carrie E. Hurtik, Esq.
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DATED September 21, 2015

/s/ Maricris Williams
An Employee of Snell & Wilmer L.L.P.

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